

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

PETER SZANTO,

Plaintiff,

v.

MARINA MARKETPLACE 1, LLC et al.,

Defendants.

3:11-cv-00394-RCJ-VPC

**ORDER**

Plaintiff Peter Szanto sued Defendants Marina Marketplace 1, LLC and Marina Marketplace 2, LLC *in pro se* in this Court under state law. The Clerk entered default against both Defendants, and Plaintiff asked the Court to enter default judgment. The Court denied the motion, because the Complaint as filed was not sufficient to support a claim. That is, page three of the Complaint was missing, and it appeared that crucial allegations concerning the alleged wrongdoing, i.e., fraudulent transfer, were contained on that page in missing paragraphs numbers fourteen through eighteen. The Court ruled that Plaintiff must file an amended complaint that included the relevant allegations and must attempt to serve that amended complaint upon Defendants.

Defendant Marina Marketplace 2, LLC has filed a Motion to Set Aside Clerk's Default (ECF No 16), arguing that the affidavit of service is fraudulent, that its members have not in fact been served, and that they only recently discovered the existence of the present lawsuit. Because Plaintiff has not timely responded, and because the Complaint is insufficient to state a claim, the Court grants the motion without adjudicating the alleged falsity of the affidavit of service.

1 More importantly, it appears from the body of the present motion—and both the affidavits of  
2 service and the Nevada Secretary of State’s website confirm it—that the members of Marina  
3 Marketplace 2, LLC (Eyve Szanto and Victor Szanto) reside in Nevada, as does Plaintiff according  
4 to the Complaint. There appears to be no diversity of citizenship, and the Complaint is based purely  
5 upon state law. The Court therefore orders Plaintiff to show cause why the Complaint should not be  
6 dismissed for lack of subject matter jurisdiction.

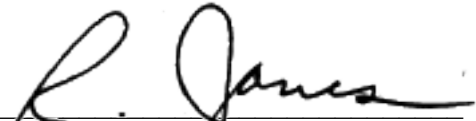
7 **CONCLUSION**

8 IT IS HEREBY ORDERED that the Motion to Set Aside Clerk’s Default (ECF No 16) is  
9 GRANTED, and the default entered against Marina Marketplace 2, LLC is SET ASIDE.

10 IT IS FURTHER ORDERED that Plaintiff shall file a brief within fourteen (14) days of the  
11 entry of this Order into the electronic docket explaining why the Court should not dismiss the  
12 Complaint for lack of subject matter jurisdiction.

13 IT IS SO ORDERED.

14 Dated this 15th day of October, 2013.

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16 ROBERT C. JONES  
17 United States District Judge  
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